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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,877	01/22/2004	Paul Amaat Raymond Gerard France	9146M	5441

27752 7590 10/06/2006

THE PROCTER & GAMBLE COMPANY  
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EXAMINER

STINSON, FRANKIE L

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/762,877

Applicant(s)

FRANCE ET AL.

Examiner

FRANKIE L. STINSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>various</u> . | 6) <input type="checkbox"/> Other: ____.  |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 11 and 21-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Madison (U. S. Pat. No. 5,423,102).

Re claims 1 and 11 for example, note that Madison discloses a method of cleaning an inanimate surface comprising:

a) providing a motorized stain-removal brush having a cleaning efficiency angle of from between about 0 degrees to 100 degrees, wherein the motorized stain-removal brush comprises:

- i) a handle having a motor (26) disposed therein;
- ii) a head having a longitudinal axis;
- iii) a neck disposed between the handle and the head;
- iv) a tilted bristle holder associated with the head which oscillates or rotates;
- v) a set of bristles (74) associated with the bristle holder wherein the motor is operatively connected to bristle holder;

b) putting a solution in contact with an inanimate surface; and

c) contacting the electric stain-removal brush to the inanimate surface so as to brush the solution on the inanimate surface.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Madison in view of Hortel (U. S. Pat. No 6,233,771).

Re claim 2 Madison is cited as applied above and therefore Claim defines over the same only in the recitation of the absorbent stain receiver. Hortel discloses the stain receiver article (col. 5, lines 60-62). It therefore would have been obvious to one having ordinary skill in the art to include in the system of Madison, a stain receiver as taught by Hortel, for the purpose prevent the spreading of the removed stain.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the applied prior art as applied to claim 1 above, and further in view of McKinney et al. (U. S. Pat. No. 4,097,953).

Claim 3 defines over Madison only in the recitation oscillation frequency as claimed. McKinney is cited disclosing the arrangement of cleaning an inanimate object with an oscillating brush employing a frequency as claimed (col. 3, lines 38-40). It therefore would have been obvious to one having ordinary skill in the art to employ in Madison, the oscillation frequency as taught by McKinney, for the purpose of ensuring a proper cleaning force and since it is old and well known to vary the speed of a cleaning brush dependent upon the various cleaning criteria.

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6. Claims 4-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madison.

Re claims 4-18, to have the specific dimensions, fluid and valve as claimed, is deemed to be of little patentable weight in view of the corresponding features in the applied prior art.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over the applied prior art as applied to claim 13 above, and further in view of Facca (U. S. Pat. No. 5,875,509).

Claim 20 defines over the applied prior art only in the recitation of the set of instructions. The patent to Facca is cited disclosing the arrangement of providing instructions for the user (col. 6, lines 46-48). It therefore would have been obvious to one having ordinary skill in the art to modify the device of Madison, to include instructions as taught by Facca, for the purpose of ensuring proper operation by the user, as is old and well known and as is the standard business model.

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

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be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claim 1,19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 22 of copending Application No. 10/659, 868 and over claims 1, 13 and 20 of copending Application No. 10/937,003. Although the conflicting claims are not identical, they are not patentably distinct from each other because the use of two set of bristles, or employing a cleaning efficiency angle of 0-100 degrees it deemed to be an obvious extension of the claimed subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Siano et al., Mank et al., Markley, Smith, Rogers, Miller, Chittum, Hines, Diebold, Traube, McCray, deBlois et al., Trelc et al. and Murphy, note the cleaning means.

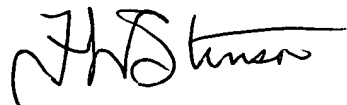
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fls



FRANKIE L. STINSON  
Primary Examiner  
GROUP ART UNIT 1746